

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

VERINATA HEALTH, INC., et al.,

No. C 12-05501 SI

Plaintiffs,

**ORDER GRANTING PLAINTIFFS'
MOTION TO SEAL**

v.

ARIOSIA DIAGNOSTICS, INC.,

Defendant.

On March 18, 2014, defendant Ariosa Diagnostics, Inc. (“Ariosa”) filed a motion for leave to amend its invalidity contentions. Docket No. 117. On April 1, 2014, plaintiffs Verinata Health, Inc. and the Board of Trustees of the Leland Stanford Junior University (collectively “Verinata”) filed an opposition. Docket No. 121. On April 1, 2014, Verinata also filed a motion to file under seal certain exhibits filed in support of its opposition. Docket No. 120. On April 7, 2014, Ariosa filed the declaration of Lauren N. Drake in support of sealing portions of Exhibits 1, 3, and 4 to Verinata’s Opposition. Docket No. 124, Drake Decl.

With the exception of a narrow range of documents that are “traditionally kept secret,” courts begin their sealing analysis with “a strong presumption in favor of access.” *Foltz v. State Farm Mut. Auto. Ins.*, 331 F.3d 1122, 1135 (9th Cir. 2003). When applying to file documents under seal in connection with a dispositive motion, the submitting party bears the burden of “articulating compelling reasons supported by specific factual findings that outweigh the general history of access and the public policies favoring disclosure, such as the public interest in understanding the judicial process.”

1 *Kamakana v. City and County of Honolulu*, 447 F.3d 1172, 1178-79 (9th Cir. 2006) (internal quotations
2 and citations omitted). However, when a party seeks to seal documents attached to a non-dispositive
3 motion, a showing of “good cause” under Federal Rule of Civil Procedure 26(c) is sufficient. *Id.* at
4 1179-80; *see also* Fed. R. Civ. P. 26(c). In addition, all requests to file under seal must be “narrowly
5 tailored,” such that only sealable information is sought to be redacted from public access. Civil Local
6 Rule 79-5(b). Because a motion to amend infringement or invalidity contentions is a non-dispositive
7 motion, the “good cause” standard applies. *See, e.g., EON Corp IP Holding LLC v. Sprint Spectrum,*
8 *L.P.*, No. C-12-01011 JST (EDL), 2014 U.S. Dist. LEXIS 33658, at *23 (N.D. Cal. Mar. 13, 2014); *Asus*
9 *Computer Int’l v. Round Rock Research, LLC*, No. 12-cv-02099 JST (NC), 2014 U.S. Dist. LEXIS
10 13901, at *4-5 (N.D. Cal. Feb. 3, 2014).

11 Ariosa argues that Exhibits 1, 3, and 4 to the Declaration of Derek Walter in support of
12 Verinata’s opposition should be filed under seal. Docket No. 124, Drake Decl. ¶¶ 2, 4, 6. To make the
13 lower showing of good cause, the moving party must make a “particularized showing” that ““specific
14 prejudice or harm”” will result if the information is disclosed. *Kamakana*, 447 F.3d at 1180, 1186;
15 *accord Phillips ex rel. Estates of Byrd v. Gen. Motors Corp.*, 307 F.3d 1206, 1210-11 (9th Cir. 2002).
16 “Broad allegations of harm, unsubstantiated by specific examples of articulated reasoning” are
17 insufficient to establish good cause. *Beckman Indus., Inc. v. Int’l Ins. Co.*, 966 F.2d 470, 476 (9th Cir.
18 1992).

19 Specifically, Ariosa makes two separate arguments for why portions of Exhibits 1, 3, and 4
20 should be filed under seal. As to the first contention, Ariosa argues that the portions of the exhibits
21 should be filed under seal because they contain corporate information relating to the awareness of
22 certain patents by certain Ariosa officers. Docket No. 124, Drake Decl. ¶¶ 2-7. Ariosa explains that
23 the disclosure of this information would cause it harm because it provides insight into the manner in
24 which Ariosa and its officers obtain information regarding third party intellectual property. *Id.* As to
25 the second contention, Ariosa argues that the portions of the exhibits should be filed under seal because
26 they contain highly sensitive technical information regarding the accused product. *Id.* ¶¶ 4-7. Ariosa
27 explains that disclosure of this information would cause it harm because it could reveal to its
28 competitors how the accused product operates and how it does not operate. *Id.* After reviewing the

1 declaration, the Court concludes that Ariosa has shown good cause for sealing these portions of the
2 exhibits.

3 In addition, Ariosa's request is narrowly tailored because it seeks to redact only the sealable
4 information from the exhibits. Accordingly, the Court GRANTS Verinata's motion to seal. Docket No.
5 120.

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7 **IT IS SO ORDERED.**

8 Dated: April 17, 2014



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10 SUSAN ILLSTON
11 United States District Judge
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